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SUBJECT: UNGA/C-6:DEBATE ON CRIMINAL ACCOUNTABILITY OF UN
OFFICIALS AND EXPERTS ON MISSION

REF: USUN 790

11. (SBU) SUMMARY: During the October 15 Sixth Committee debate on criminal accountability of UN officials and experts on mission, delegates discussed short and long-term measures available to address criminal accountability, what categories of UN personnel should be included in a system of criminal accountability and whether the system should be limited to all crimes committed by UN personnel, or to a limited scope of serious offenses. While Portugal (on behalf of the EU), Australia (on behalf of CANZ) and Switzerland expressed support for the negotiation of a convention, most Member States thought it was premature to consider such action without first determining whether the problem is significant enough. Oddly, the UN Secretariat continues to push for the elaboration of a convention despite the weak support for such action expressed by the majority of Member States. END SUMMARY.

12. (U) During the October 15 debate on criminal accountability of UN officials and experts on mission twenty-four member states addressed the Sixth Committee. Delegations that delivered statements were: Australia (on behalf of CANZ), Portugal (on behalf of the EU), Cuba (on behalf of NAM), Switzerland, Egypt, Guatemala, China, India, Indonesia, Tunisia, the Democratic Republic of the Congo, Thailand, El Salvador, Uruguay, Ecuador, South Africa, Mexico, Malaysia, Morocco, the United States, Venezuela, Algeria, the Russian Federation and Kenya.

13. (U) The main themes of the debate included, short and long-term measures available to address the criminal accountability of UN personnel on mission, what categories of UN personnel should be included in a system of criminal accountability, and whether such a system should pertain to all crimes committed by UN staff, or to a limited scope of serious offenses. In their remarks, many delegates expressed broad support for a zero tolerance policy toward criminal acts committed by UN personnel, particularly crimes involving sexual abuse and exploitation. However, this support was tempered by the view that more time was needed to examine the true scope and substance of the problem before talks on concrete measures could begin.

14. (U) Chapter seven of the SYG report on criminal accountability of United Nations officials and experts on mission (A/62/329) lists short and long-term recommendations for addressing the issue of criminal jurisdiction and the role of Member States, which the Secretariat first circulated during an informal briefing in September (reftel). To address what the Secretariat calls a "jurisdictional gap," the SYG report suggests Member States implement short-term solutions, such as extending existing domestic jurisdiction to cover their nationals seconded to UN missions, with a view to adopting a convention on criminal accountability in the long-term. Portugal (on behalf of the EU), Australia (on behalf of CANZ) and Switzerland supported the Secretariat's

recommendation for a convention. Australia noted that a convention would better enable Member States to assert and exercise jurisdiction and facilitate mutual legal assistance in criminal matters. However, many delegations argued that there was not enough information to determine whether gaps in the current system of criminal accountability exist. For this reason, Egypt emphasized the importance of concluding a comprehensive study on all elements concerning criminal accountability before discussing the need for a convention.

¶5. (U) For many delegations, basic questions concerning the scope of accountability and which criminal activities would be covered under a new criminal accountability framework were unclear. Australia stated that the system of accountability should extend beyond the scope of peacekeeping missions and apply to "all UN personnel who are in the area of a UN operation irrespective of their Department, Office, Programme, Fund or Specialized Agency." Switzerland argued the scope of criminal accountability should include the military personnel of national contingents, since experience has shown that they are most likely "to be involved in the commission of crimes in the context of peacekeeping operations." On the other hand, Egypt, Tunisia, Russia and several other delegations expressed reservations about extending the scope of accountability to military and police officials seconded to UN missions; arguing that criminal accountability should apply only to civilian experts and officials, since police and military officials seconded to UN missions would be covered under the military laws of the Sending State.

¶6. (U) As to the scope of crimes, most delegations said that the system should not be limited to sexual exploitation, but include other serious crimes against property and persons.

However, delegations differed on how to establish what constitutes a "serious" crime. Some delegations asked for statistics on crimes committed by UN personnel from which a list of serious crimes could be compiled. Other delegates preferred to refer to the severity of punishments defined in the host country law to determine whether a particular act qualified as a "serious crime."

¶7. (SBU) COMMENT: The Secretariat Note (A/62/329) has framed the debate and Working Group deliberations in a way that assumes the logical result of the Committee's discussions will be the negotiation of a draft convention. The Secretariat's persistent support for a convention, despite

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the fact that many Member States express weak support for such action, seems to have stimulated discussion of this option. END COMMENT.

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